

# *Town of North Topsail Beach*

Joann M. McDermon, Mayor  
Mike Benson, Mayor Pro Tem

Aldermen:  
Richard Grant  
Don Harte  
Connie Pletl  
Robert Swantek



Alice Derian, ICMA-CM  
Town Manager

Danyale Lundy  
Town Clerk

*Nature's Tranquil Beauty*

## **Planning Board**

Program for Public Information (PPI) Committee

### **Agenda**

Thursday, March 10, 2022, at 5:00 PM

2008 Loggerhead Court, North Topsail Beach NC 28460

- I. Call to Order – 5:00 p.m.
- II. Adoption of Agenda – 5:01 p.m.
- III. Approval of Minutes
  - A. January 13, 2022, 5:03 p.m.
  - B. February 10, 2022, 5:04 p.m.
- IV. Public Comment – 5:05 p.m.
- V. New Business
  - A. Text Amendment Request: Dune Protection – 5:30 p.m.
  - B. Proposed Text Amendment: UDO §4.03.07 Fences – 6:00 p.m.
- VI. Discussion – 6:15 p.m.
- VII. Adjournment – 6:30 p.m.

**Notice to citizens who wish to speak:** As a courtesy to others, a citizen speaking on an agenda item or making a petition is normally limited to three minutes. Persons who are organizing a group presentation and who wish to speak beyond the three minute limit are requested to make prior arrangements through the Planning Director by calling 328-1349. If you wish to address the Board this evening, please go to the front right corner of the conference room and sign up with the Recording Secretary. The Board may also change the order in which agenda items are presented.

**Attorneys:** If you are representing a person with an interest in a quasi-judicial proceeding on this agenda and believe you may wish to cross examine a witness, please identify yourself as such to the Recording Secretary. For the sake of maintaining an accurate public record all speakers must be prepared to speak into an amplified microphone and must provide their name to the Recording Secretary.

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## Nature's Tranquil Beauty

### Planning Board

Program for Public Information (PPI) Committee

### Regular Meeting Draft Minutes

January 13, 2022 at 5:00 PM

2008 Loggerhead Ct, North Topsail Beach, NC 28460

Present: Hanna McCloud - Chair, Pat Stigall, Alfred Fontana, Lisa Brown, Gunnar Matthews, Deborah Hill – Planning Director, Kate Winzler – Clerk to the Planning Board.

Absent: Paul Dorazio – Vice Chair, Scott Morse, Mia Green, Rebecca Dickson.

CALL TO ORDER Mrs. McCloud called the meeting to order at 5:05 p.m.

**ADOPTION OF AGENDA Mr. Matthews made a motion to adopt the agenda. Mrs. Brown seconded the motion, motion passed unanimously, 5-0.**

**APPROVAL OF MINUTES Mr. Fontana made a motion to approve the October 14, 2021 minutes. Mr. Matthews seconded the motion, motion passed unanimously, 5-0.**

**PUBLIC COMMENT** Planning Director Hill introduced the new North Topsail Beach Town Manager, Alice Derian to the Planning Board.

**OLD BUSINESS BUILDING DESIGN ELEMENTS (UDO §4.03.20-21; NCGS §160D-702)**

Planning Director Hill discussed the special use permit for single-family residences and duplexes, required for a certain number of bedrooms and a certain amount of heated square footage. The University of North Carolina School of Government is set to begin code scanning the North Topsail Beach UDO on January 24, 2022 to ensure consistency with §160D. The North Topsail Beach Town attorney has advised that this type of restriction is inconsistent with North Carolina general statutes. Planning Director Hill proposed that the Planning Board wait until the UNC SOG has completed scanning the UDO and address all the inconsistencies at once and send the revised UDO to American Legal for codification as one package. The Board consented.

**DISCUSSION** Planning Director Hill updated the Board on workload of Town staff with the increased development volume in North Topsail Beach.

**ADJOURNMENT Mrs. Brown made a motion to adjourn. Mrs. Stigall seconded the motion, motion passed unanimously, 5-0.**

The Planning Board meeting adjourned at 5:17 p.m.

APPROVED  
This 10th day of March 2022

CERTIFIED  
This 10th day of March 2022

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Hanna McCloud  
Chair

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Kate Winzler  
Clerk

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## *Nature's Tranquil Beauty*

### **Planning Board**

Program for Public Information (PPI) Committee

### **Regular Meeting Draft Minutes**

February 10, 2022 at **5:00 PM**

2008 Loggerhead Ct, North Topsail Beach, NC 28460

Present: Hanna McCloud - Chair, Paul Dorazio – Vice Chair, Pat Stigall, Alfred Fontana, Lisa Brown, Deborah Hill – Planning Director, Kate Winzler – Clerk to the Planning Board.

Absent: Gunnar Matthews, Scott Morse, Mia Green, Rebecca Dickson.

CALL TO ORDER Mrs. McCloud called the meeting to order at 5:03 p.m.

**ADOPTION OF AGENDA Mrs. Brown made a motion to adopt the agenda. Mr. Fontana seconded the motion, motion passed unanimously, 5-0.**

PUBLIC COMMENT None.

#### NEW BUSINESS Code Enforcement

Planning Director Hill discussed code enforcement topics, including travel trailers, travel trailer parks, decks, enclosed decks, parking, development without a permit, repeat offenders. She outlined the standards included in the North Topsail Beach UDO regarding existing travel trailer parks, such as the requirement for those parks to produce a binder with the current RV registrations to the Building Codes Administrator upon request. RV's are not currently permitted at a private residence in North Topsail Beach, only at an existing travel trailer park. Certain UDO restrictions for existing travel trailer parks were discussed including shed limitations, deck limitations, covered deck limitations, and screened porch limitations. There was discussion amongst the Board. Planning Director Hill noted that park models are not suitable for VE flood zones, and the State language includes park models in their verbiage. Mr. Fontana asked if the Planning Board may make a recommendation to the Board of Aldermen, and Planning Director Hill advised that was possible in Chair McCloud's monthly report to the Board of Aldermen. She noted that Planning Board members may also contact their Aldermen individually.

There was discussion. The Board noted the need for a full-time code enforcement officer and that enforcement consistency is imperative.

Planning Director Hill introduced the topic of parking and it's correlating challenges. She noted that the paid parking lots are clearly marked, but that there are several driveways built along Island Drive where it appears that there is parking in the right-of-way, which presents an

enforcement challenge. The Board suggested again that the Town needs the accountability of a full-time code enforcement officer, especially with the marked increase in development and enforcement demands.

DISCUSSION None.

**ADJOURNMENT Mrs. Stigall made a motion to adjourn. Mr. Dorazio seconded the motion, motion passed unanimously, 5-0.**

The Planning Board meeting adjourned at 6:20 p.m.

APPROVED

This 10th day of March 2022

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Hanna McCloud  
Chair

CERTIFIED

This 10th day of March 2022

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Kate Winzler  
Clerk



*Town of North Topsail Beach*  
Planning Board

Agenda Item:	VI. A.
Date:	3/10/2022

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**Issue:** Text Amendment Request: Dune Protection (Alderman Swantek)

**Department:** Planning

**Prepared by:** Deborah J. Hill MPA AICP CFM CZO

**Presentation:** Yes

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**BACKGROUND** The unique primary dunes and the development of 40 and 44 Porpoise Place has resulted in several complaints regarding the dunes being destroyed (10/14/2020); golf cart signs (12/13/2021); and building materials in the streets (1/31/2022).

Since September 2021, staff has worked with the Division of Coastal Management and the contractor, addressing dune disturbance and an application for a single family house and swimming pool. On September 23, 2021, Curtis Weychert notified me that his supervisor, Roy Brownlow believed that the dune qualified as a Primary Dune and would not violate any of our rules with the current proposal.

On October 14, 2021, I notified the contractor that the dune would have to be restored.



I required that the contractor stop work and provide revised V Zone Certificate and Plot Plan, which he did. I reviewed the revised documents for compliance with UDO, CAMA Land Use Plan and Town Code Article IV Sand Dune Protection prior to authorizing the commencement of any work.

Roy Brownlow, District Manager, Division of Coastal Management notified me that:

From the DCM perspective, when a plat review is done, we are accepting that the area within the proposed structure footprint and even a reasonable area beyond that is necessary to be cleared and graded to accommodate construction which is typical of nearly all residential construction sites for new development.

Provided the graded and cleared area is within the footprint of the proposed dwelling as shown on the plat to obtain the CAMA permit, and judging by the photo in your previous email, the work done (in the photo) appears to be reasonable necessary clearing and grading in order to construct the dwelling and in compliance with the CAMA permit terms and conditions. However, a final determination cannot be made until a site visit is done to confirm not so much that the dune was cut which was expected upon review of the plans for the CAMA permit, but the location of the grading. The area for the pool may not be graded until a CAMA permit and any other local permits are issued.

Hope this helps to clarify this at least from the coastal management perspective. The above comments do not reflect an opinion or determination for compliance for the Town's ordinances and codes.

If I have the opportunity, I will try to do a site visit tomorrow to check for CAMA compliance.

On Monday, October 18, 2021, I met with DCM District Manager Roy Brownlow and contractor Robert Jordan/ RH McClure Builders. Mr. Brownlow identified the primary dunes, static line and more restrictive 1<sup>st</sup> line of stable vegetation and 60 foot setback. Mr. Brownlow confirmed that the grading work done was consistent with the permit and the CRC rules.

Mr. Brownlow can attest the FLSNV on lot 40 was taken from natural dune vegetation that included but not limited to the presence of vines, sea oats, shore elder, and American beach grass and other natural occurring vegetation. The natural dune vegetation is also growing on a primary dune that is present on the property and the grading work done at that time was landward of the crest of the primary dune. In this case, the 60' setback from the FLSNV was more restrictive than the Static Line setback or the crest of the primary dune, therefore the ocean hazard setback [60' from the FLSNV] is the most landward, or most restrictive, and the applicable setback provided by the CRC rules in this specific case.

NCAC 07H .0306(a)(6) If a primary dune exists in the AEC on or landward of the lot where the development is proposed, the development shall be landward of the crest of the primary dune, the ocean hazard setback, or development line, whichever is farthest from vegetation line, static vegetation line, or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, but shall not be located on or oceanward of a frontal dune or the

development line. The words "existing lots" in this Rule shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.

While onsite with Mr. Brownlow and the contractor, I measured the zoning setbacks on the ground. I advised Mr. Jordan to have his surveyor verify the front southern corner of the building envelope.

I stated that Mr. Jordan may have Mark Billet remove the cut mangrove limbs but for the sand to remain on the lot, to be spread or used to elevate the concrete pad up to 2 feet. Mr. Brownlow stated that it could also be used to dress the landward escarpment of the dune. We further discussed stabilizing the dune; that any structure such as retaining wall, etc, while allowed by DCM, would be a violation of FEMA's freedom of obstruction requirements.

We discussed the permit requirements for swimming pools. We also discussed alternatives, such as hot tubs elevated on an engineered deck. Mr. Brownlow asked me to double-check the CAMA LUP and the most recent UDO amendment which allows pools within the CAMA setback, consistent with CAMA regs.

The CAMA LUP has no policy statements regarding pools. Policy statement P. 14 — which is prohibits significant alteration or removal of primary or frontal dunes or the dune vegetation — is specific to the Inlet Hazard Area AEC and does not apply to 40 Porpoise Place, which is in an Ocean Hazard AEC. This is in contrast to Town Code § 10-49 (b), which allows for exceptions and not exclusive to any AEC.

October 21, 2021, after conferring with DCM and reviewing the revised documents, I notified the contractor that they may proceed, consistent with the permits issued.

**On December 12, 2021, I received a complaint about the golf cart signs missing.**

Porpoise Place is a public street.

The Town adopted general parking rules posted on the Town's website at <https://www.ntbnc.org/beach-accesses> and updated FAQs on Paid Parking <https://www.ntbnc.org/post/updated-faqs-on-paid-parking>

Parking is allowed only in designated parking areas, so no parking includes on the street, partially on the street, and in the public "right of way."

Porpoise Place is a public right of way and indicated on the recorded plat and the Powell Bill. On FEBRUARY 2, 2000, Alderman Sizemore moved, seconded by Alderman Smith approval of the release of the performance bonds for Dolphin Shores. The motion passed unanimously. Alderman Flynn moved, seconded by Alderman Sizemore, acceptance of the streets in Dolphin Shores, namely Porpoise Lane and Bottlenose Court. The motion passed unanimously.

Porpoise Place is not listed in the approved parking:



ZONE # - LOCATION - SPACES

NTB01 - Reeves Street - 10  
NTB02 - Chestnut Street - 20  
NTB03 - 21st Avenue - 12  
NTB04 - 13th Avenue - 12  
NTB05 - Rodney Knowles Park - 14  
NTB06 - Myrtle Drive - 15  
NTB07 - 4030 Island Drive - 150  
NTB08 - Jeffries #1 - 80  
NTB09 - Jeffries #2 - 217  
NTB10 - Town Park S - 20  
NTB11 - Town Park N - 23  
NTB12 - Jenkins - 20  
NTB13 - Bay Court Parallel - 12  
NTB14 - Marina Way Parallel - 12  
NTB15 - North End Lot - 35  
NTB44 - 4X4 Drive On Area

Parking in a cul-de-sac is inadvisable as emergency vehicles need clear access to the roads to respond to emergencies.

**§ 20-162. Parking in front of private driveway, fire hydrant, fire station, intersection of curb lines or fire lane.**

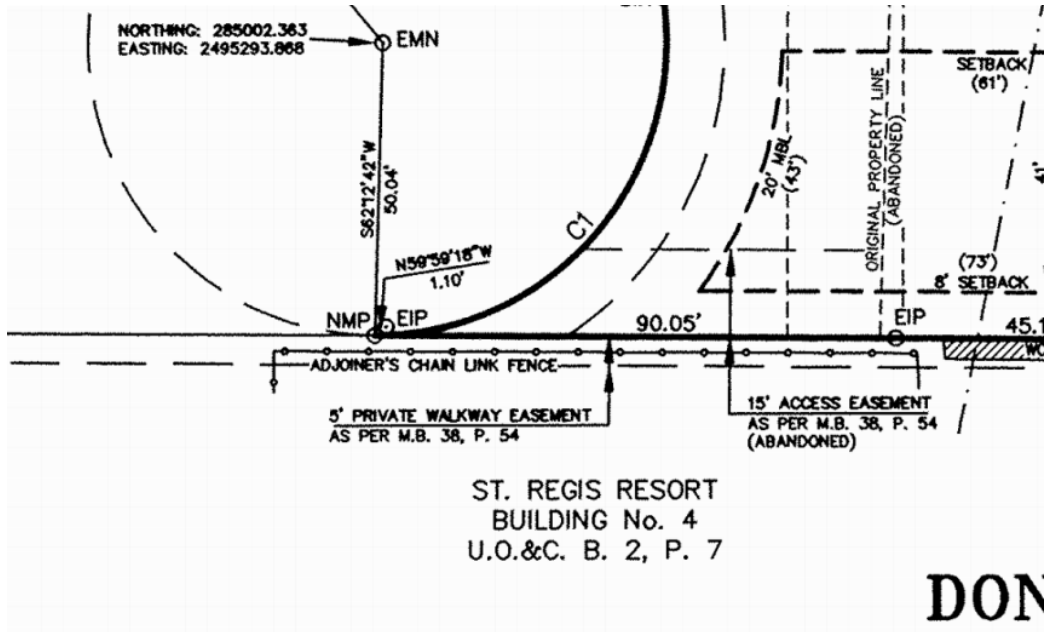
(a) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon a highway in front of a private driveway or within 15 feet in either direction of a fire hydrant or the entrance to a fire station, nor within 25 feet from the intersection of curb lines or if none, then within 15 feet of the intersection of property lines at an intersection of highways; provided, that local authorities may by ordinance decrease the distance within which a vehicle may park in either direction of a fire hydrant.

(b) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any public vehicular area, street, highway or roadway in any area designated as a fire lane. This prohibition includes designated fire lanes in shopping center or mall parking lots and all other public vehicular areas. Provided, however, persons loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended. The prima facie rule of evidence created by G.S. 20-162.1 is applicable to prosecutions for violation of this section. The owner of a vehicle parked in violation of this subsection shall be deemed to have appointed any State, county or municipal law-enforcement officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle. No law-enforcement officer removing such a vehicle shall be held criminally or civilly liable in any way for any acts or omissions arising out of or caused by carrying out or enforcing any provisions of this subsection, unless the conduct of the officer amounts to wanton misconduct or intentional wrongdoing. (1937, c. 407, s. 124; 1939, c. 111; 1979, c. 552; 1981, c. 574, s. 1.)

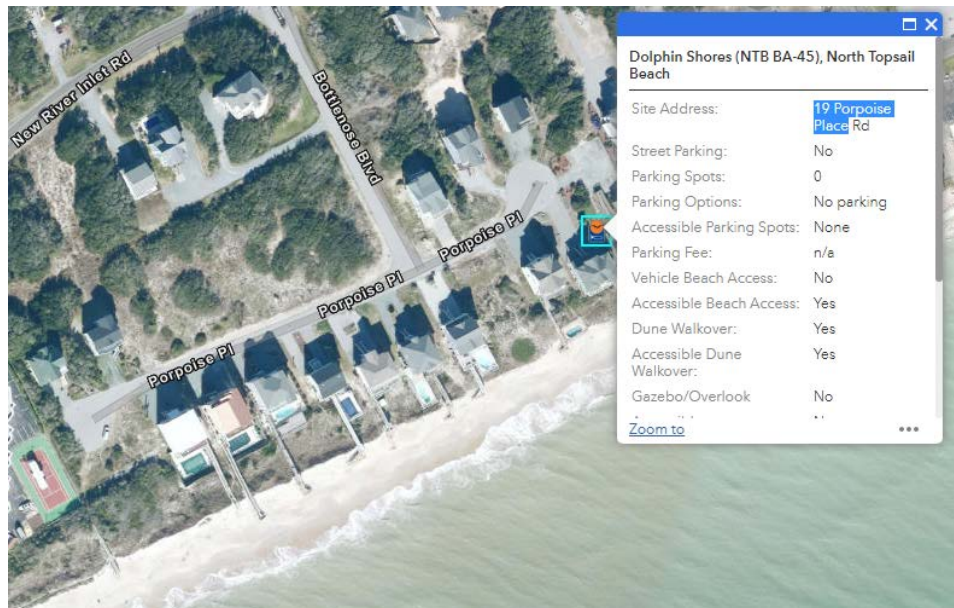
The aerial below indicates a well-worn path from Porpoise Place cul-de-sac, through private property to the private 5' private walkway easement between Dolphin Shores and the adjoiner's (i.e., St Regis) chain link fence.



Sound planning principles do not support public parking or golf carts on the southern portion of Porpoise Place, particularly within the cul-de-sac, as this facilitates the trespass through private property to a private walkway to a private beach access.



There is a public beach access NTB BA-45 on the northern portion at 19 Porpoise Place. No parking is available.



**On January 31, 2022, I received a complaint about building materials in the street.**

I notified the contractor who stated that they were moving them that day and that he was waiting for someone to operate the lift.

On February 11, 2022, I met with Town Manager Darian and Aldermen Swantek, who asked about the beach access at Dolphin Shores and the beach access south of St. Regis, formerly BA 44. I relayed the information above. Alderman Swantek requested that I place strengthening the Town's dune ordinance and regulations on the Planning Board agenda.

### **RECOMMENDATION**

That the Planning Board:

- 1) Review the attached excerpts from the Unified Development Ordinance, CAMA Land Use Plan and the Town Code;
- 2) **Discuss whether or not current CAMA and Town Code, UDO and LUP regulations are sufficient or whether greater restrictions are deemed necessary;**
- 3) Recommend any desired text amendments of the Town's local dune regulations to the Board of Aldermen. (Note: Policy statements are enforceable and do not qualify for variance, neither through the Town's Board of Adjustment nor the Coastal Resource Commission.)

**ATTACHMENT** Local dune regulations (excerpts from UDO, LUP, TOWN CODE)

## LOCAL DUNE REGULATIONS (UDO, LUP, TOWN CODE)

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### Unified Development Ordinance

#### **§2.14.01 CAMA PERMIT.**

No development regulated by North Carolina CAMA regulations shall occur, unless the CAMA permitting officer shall first issue a CAMA permit.

(Ord. passed 11-2-2011)

(B) Preliminary plats.

(1) Application requirements.

(e) Primary dunes. The location of the primary dunes as established by the N.C. Division of Coastal Management (NCDCM) or CAMA LPO;

**§6.02.04 OPEN SPACE.** (D) Required natural area: nothing in this section shall change, modify or repeal the requirements of §§2.06.09 or 7.05(G) related to dunes and vegetation protection with regard to the percentage of each tract or lot that must be retained in its natural state.

**§6.02.06 UTILITIES.** (C) Outdoor lighting. (3) Ocean front dwellings may install outdoor lighting on the ocean side of the dwelling, but it must be low voltage, indirect or full cut-off fixtures. The lighting shall not illuminate any part of the dune area or public beach area. Low indirect lighting can be placed on crosswalks from the dwelling to the dune area; lighting will not extend past the toe of the dune on the landward side. (note: applies to proposed development; and not to existing)

**§ 7.04 ADMINISTRATION.** (B) Floodplain development application, permit and certification requirements. (2) Permit requirements. The floodplain development permit shall include, but not be limited to: (i) A statement that there shall be no alteration of sand dunes which would increase potential flood damage;

**§ 7.04 ADMINISTRATION.** (C) Duties and responsibilities of the Floodplain Administrator. The Floodplain Administrator shall perform, but not be limited to, the following duties:

(13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the BFE, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. However, if the property is to be removed from the V Zone it must not be located seaward of the landward toe of the primary frontal dune. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file;

**§ 7.04 ADMINISTRATION.** (G) (10) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.

#### **§10.07.02 REBUILDING OF DAMAGED DUNES.**

Any dune in the required natural area that is damaged during construction, or damage occurring as a result of such construction, or excavated in violation of this ordinance shall be restored to its original state using similar materials and stabilizing vegetation. It shall be the responsibility of the property owner to guarantee the protection of all identified dune systems and not allow the natural topography of the lot altered beyond that which has been authorized in the permit. The rebuilding of a dune shall be the ultimate responsibility of the property owner. Any dune in the required natural area that has been damaged or excavated in violation of this ordinance shall be restored within 60 days of notice. (Ord. passed 11-2-2011)

**§10.07.03 REPLACEMENT OF DAMAGED TREES.** (C) Individual tree violations. For purposes of the dunes and vegetation regulations (**§2.14.01 renamed CAMA**), the removal of each tree and the failure to replace each tree on a given parcel of land shall be viewed as individual violations of these regulations.

**COASTAL HIGH HAZARD AREA.** A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM or other adopted flood map as determined in § 7.03(B), as zones VE and AE.

**DUNE.** A naturally placed mound of earth or sand, vegetated or un-vegetated, that can be independent or part of an incorporated system. The word DUNE shall include:

- (1) Estuarine frontal dunes: the first mounds of sand located landward of the estuarine waters of the intercoastal and having a minimum elevation equal to mean flood level plus six feet;
- (2) Frontal dunes: the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value;
- (3) Interior dunes: all dunes located in the town that are not considered frontal dunes; and
- (4) Primary dunes: the first mounds of sand located landward of the ocean beaches having an elevation equal to mean flood level for the area plus six feet. Primary dunes extend landward to the lowest elevation in the depression behind the same mound of sand.

**PRIMARY FRONTAL DUNE (PFD).** A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

**SAND DUNES.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

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## CAMA Land Use Plan

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The CAMA LUP contains the word “dune” eighty-four times; three times in enforceable policy statements; and only once, with regard to primary dunes.

*Note: P. 14 applies to Inlet Hazard Area exclusively.*

P.14 The Town allows development within the defined inlet hazard areas, assuming the development is consistent with all local zoning and subdivision regulations, 15A NCAC 7H use standards, and the following use standards:

(6) In all cases, development shall only be permitted if it meets other applicable 15A NCAC 7H inlet hazard areas use standards; is landward of the vegetation line; and involves no significant alteration or removal of primary or frontal dunes or the dune vegetation. NOTE: This policy exceeds the minimum use standards.

P.26 It is the policy of the Town to require the construction of dune walkover platforms at all Town-maintained public beach access points. The Town will seek public access grant funding for the development of these access points. The Town will encourage the development of dune crossovers on private property in the future. NOTE: This policy exceeds the minimum use standards.

P.56 The Town recognizes the significance of protecting the primary dune line along oceanfront portions of the Town’s planning jurisdiction. The Town supports continued efforts to protect these dunes through a proactive dune stabilization and protection program.

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**TOWN CODE [ARTICLE IV. SAND DUNE PROTECTION](#)**

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§ 10-44 FINDINGS OF FACT AND PURPOSE.

(a) The sand dunes within the town are a topographical feature unique to coastal areas, and are a tourist attraction as well as a protective barrier against the dangers of wind, flood and erosion. The sand dunes make a vital contribution to the nature and character of the town as a coastal resort community. The town believes the sand dunes should be preserved, and development on the sand dunes within the town controlled in a manner compatible with their preservation.

(b) This article is adopted to preserve and promote the protection of the town by maintaining the existence of natural and constructed dunes that help protect it from the danger of flooding and erosion, and land against the actions of sand, wind and water. The practice of destroying sand dunes and removing vegetation therefrom within the town constitutes a serious threat to the safety of adjacent properties. This article is therefore adopted for the health, safety and welfare of persons living, visiting or sojourning to and in the town, and for the protection of public and private property.

(c) As used in this article, the phrase SAND DUNE shall mean any and all manmade or natural mound of sand, regardless of size. This includes, but is not limited to, natural dunes, man-made or constructed dunes, berms, sand formations created by a beach/dune push or scrape, individual sandbags, sandbag walls, and sandbag revetments.

(d) The term **FRONTAL DUNE** used in this article shall refer to the first manmade or natural mound of sand landward of the highwater mark of the Atlantic Ocean, regardless of height or width, considered to be the first line of defense against impending tides and/or storm surge. (Ord. 2015-10, passed 10-1-2015; Ord. -, passed - -)

§ 10-45 CONFLICTS WITH STATE RULES.

If any provision of this article is in conflict with a rule or regulation adopted by the State Coastal Resources Commission dealing with oceanfront erosion control, then the most stringent rule or regulation shall control and apply.

(Ord. 2015-10, passed 10-1-2015; Ord. -, passed - -)

§ 10-46 TERRITORIAL APPLICABILITY.

This article shall apply to sand dunes within the corporate limits and boundaries of the town.

(Ord. 2015-10, passed 10-1-2015)

§ 10-47 EXEMPTIONS.

The provisions of this article do not apply to:

(a) The removal of sand, seashells or similar materials for souvenir value in such amounts as may be carried upon the person;

(b) Any activity authorized or allowed by G.S. § 113A-103(5)(b)5. for emergency maintenance and repair.

(c) Any activity conducted by a federal or state agency for beach renourishment and protection.

(Ord. 2015-10, passed 10-1-2015)

§ 10-48 ENFORCEMENT.

This article shall be enforced by the local ~~Coastal Area Management Act (CAMA) code enforcement officer~~ and law enforcement officers of the town. If no person is serving in the



capacity of local ~~CAMA code enforcement~~ officer, this article shall be enforced by the Building Inspector or such person in the Inspections Department as may be designated by the ~~Building Inspector~~ Town Manager.

(Ord. 2015-10, passed 10-1-2015)

Statutory reference:

Coastal Area Management Act of 1974, see G.S. 113A-100 et seq.

#### § 10-49 DAMAGING SAND DUNES.

(a) (1) It shall be unlawful for any person to walk over, cross over, stand, sit, walk, run, or otherwise loiter upon any sand dune except to cross at an authorized, marked crossover or designated beach access.

(2) It shall be unlawful for any person to place any items, belongings, or beach equipment upon any dune at any time.

(b) It shall be unlawful for any person to damage, destroy or remove any sand dune or part thereof, or to kill, destroy or remove any trees, shrubbery or other vegetation growing on sand dunes, **except** in the following locations:

(1) The area within the foundation perimeter of any existing structure or any structure to be constructed, as shown on the survey or site plan submitted to the Building Inspector as part of the building permit application process, or to the Planning Board as part of the site plan review process.

(2) An area around the perimeter of an existing building or proposed principal building not to exceed a width of 12 feet from the building foundation perimeter.

(3) The area within the boundaries of existing driveways and parking areas, or driveways and parking areas to be constructed in accordance with a survey or site plan approved by the Planning Board or other appropriate reviewing town official.

(4) On commercial, multifamily, group development, or planned unit development site plans that have been approved by the Planning Board (and Board of Aldermen if required), those areas delineated and designated on the site plan for land-disturbing activity, provided such land-disturbing activity is also undertaken pursuant to the Coastal Area Management Act.

(5) In hard-surfaced designated recreation areas.

(c) Subsection (b) of this section does not apply to any of the following:

(1) Landscaping activities and garden plots, provided the original dune contour is not altered.

(2) Water, sewage, or wastewater disposal systems and drainfields.

(d) For the purposes of this article, a property owner, or his or her agent, shall be entitled to specify, either by means of their permit for crossover construction or by other written communication to the town, the location on their frontal dune of the private crossover they intend to use. If no crossover location on the frontal dune has been so designated by the property owner, or his or her agent, none shall be construed.

(Ord. 2015-10, passed 10-1-2015; Ord. -, passed - -)

Cross-reference:

Vehicles on beaches, see §§ 10-30 et seq.

#### § 10-50 REPAIRING DAMAGE CAUSED BY VIOLATIONS.

It shall be unlawful to fail to repair or restore dunes or vegetation damaged by not complying with this article. Any dune-disturbing activity shall be immediately repaired in accordance with requirements of the Coastal Area Management Act. Failure to repair damage to dunes and

vegetation shall constitute a separate violation for each ten days that such failure continues after written notification by the CAMA officer.

(Ord. 2015-10, passed 10-1-2015)

§ 10-51 CRIMINAL PENALTY.

Any person, firm or corporation who violates any section of this article shall be guilty of a misdemeanor and will be punished by a fine of up to a maximum of \$500, depending on the severity of the damage.

(Ord. 2015-10, passed 10-1-2015)

§ 10-52 CIVIL PENALTY.

If any person, firm or corporation continues to violate or further violates any provision of this article, that person shall be liable to the town for a civil penalty of not less than \$500.

(Ord. 2015-10, passed 10-1-2015)

§ 10-53 SEVERABILITY.

If any section of this article be decided by a court of competent jurisdiction to be unconstitutional or invalid, it shall not affect the validity of this article as a whole, or any section thereof, other than the section so declared to be unconstitutional or invalid.

(Ord. 2015-10, passed 10-1-2015)



*Town of North Topsail Beach*  
Planning Board

Agenda Item:	V. A.
Date:	3/10/2022

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**Issue:** Fences (UDO §4.03.07)

**Department:** Planning

**Prepared by:** Deborah J. Hill MPA AICP CFM CZO

**Presentation:** Yes

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**BACKGROUND.** Recently, zoning and flood permits were issued for a swimming pool, which included the required fencing. The fence was constructed, encompassing the utility line easement that was within the owner's property, not within the right-of-way.

§ 4.03.07 FENCES.

Ornamental fences not over four feet high may project into or may enclose any front or side yard, and fences enclosing rear yards may be six feet high. In nonresidential districts, an open fence through which clear vision is possible from one side to the other on a horizontal plane, and such openings occupy 50% or more of the area of the fence, may be erected in the rear yard to a maximum height of ten feet. Fences intended solely for enclosure of tennis courts, batting cages or other similar structures shall be exempt from the maximum height requirements of this section. In no event shall any electrified or barbed wire fence be erected or retained. Fences must be maintained in sound condition such that they are fully standing. No fence shall be erected in any location that interferes with the line-of-sight of motorists using public or private roadways. A zoning permit must be obtained from the Zoning Administrator for any fence erected in the town.

(Ord. passed 11-2-2011)

**RECOMMENDATION** The Planning Director recommends the following text amendment:

Zoning and flood permits are required prior to any fencing installation, with the exception of sand fencing and post and rope. Chain link, pipe, wood rail fencing (e.g. field fence, post and rail) and wood or metal picket fence types are permissible, with an open fence through which clear vision is possible from one side to the other on a horizontal plane, and such openings occupy 50% or more of the area of the fence.

In residential districts, the maximum height for rear yard fencing shall not exceed six feet. The maximum height for the side and front yard shall not exceed four feet. Fencing may take place right up to the lot line, but not beyond.

In non-residential districts, fencing may be erected in the rear yard to a maximum height of ten feet. Fences intended solely for enclosure of tennis courts, batting cages or other similar structures shall be exempt from the maximum height requirements of this section.

The following fences are prohibited:

- Solid board fencing and fences with openings that occupy 50% or less of the area of the fence are prohibited;
- Electrified or barbed wire;
- Any fence in any location that interferes with the line-of-sight of motorists using public or private roadways; and
- Any fence encroaching into a utility easement.

**ATTACHMENTS**      None.